IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 606 OF 1997

M/s. Shree Mahesh Investments ... Plaintiffs.

V/s.

M/s. Bangur & Co. & Anr. ... Defendants.

Mr. G.K.Karkera for the plaintiffs.

CORAM : ANOOP V. MOHTA,J.

DATED : 21st June, 2007

ORAL JUDGMENT:-

The suit is for recovery of amount due and payable by the defendants to the plaintiffs as per the ledger entry as on 31st March, 1996 and interest thereon.

2. A sum of Rs. 55539=80 was due and payable by the defendants at the running account with the plaintiffs in respect of the sale and purchase transaction of shares, stocks, debentures and securities. Though demanded by letter dated 31st July, 1996 the defendants have not paid the same except denying the liabilities. The plaintiffs reiterated with the claim in the rejoinder dated 05/09/1996. The present suit, therefore, filed by the plaintiff on 06th November,

1996 which is within limitation.

3. Though served, none appeared for the defendants. The suit is, therefore, treated as undefended suit.

4. The plaintiffs have filed affidavit of examination in chief dated 20/06/2007 alongwith the documents. All the documents marked as Exhibit P collectively. The averments made in the plaint as well as in the affidavit of examination-in-chief, remained uncontroverted. The contents of the affidavit filed by the plaintiffs also remained uncontroverted. The documents are; running ledger entry from the account of the defendants with the plaintiffs and copies of demand notices. Though, defendants in the notices in reply denied the liability but in the circumstances that there is no written statement filed on record and the plaintiffs claim is also remained uncontroverted and in fact supported to the affidavit filed on record, I am of the view that, the plaintiff is entitled for the decree as claimed so far as the principal amount is concerned.

5. The plaintiffs have claimed an interest on principal amount of Rs.55539=80 paise at the rate of

24% p.a. from 01/04/1996 till 31/10/1996. This claim of interest rate is on higher side. In the facts and circumstances of the case, the plaintiff is entitled at the rate of 9% p.a. on the principal amount from 01/04/1996 and from the date of the suit till the payment and or realization.

O R D E R

a) A decree be drawn, therefore, in favour of the plaintiffs and against the defendants. A sum of Rs.55539=80 with interest at the rate of 9% p.a. from 01/04/1996 and further from the date of the suit till the payment and or realization.

b) No order as to the costs.

[ANOOP V. MOHTA, J.]